

SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-13-0054
RULE 12, RULES OF FAMILY LAW	)	
PROCEDURE	)	
	)	
	)	<b>FILED 09/02/2014</b>
	)	
_____	)	

**ORDER  
AMENDING RULE 12, ARIZONA RULES OF FAMILY LAW PROCEDURE**

A petition having been filed proposing to amend Rule 12, Arizona Rules of Family Law Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 12, Arizona Rules of Family Law Procedure, be amended in accordance with the attachment hereto, effective January 1, 2015.

DATED this 2<sup>ND</sup> day of September, 2014.

\_\_\_\_\_  
SCOTT BALES  
Chief Justice

TO:

Rule 28 Distribution

John A Furlong

Hon. Sean E Brearcliffe

## ATTACHMENT<sup>1</sup>

### ARIZONA RULES OF FAMILY LAW PROCEDURE

#### Rule 12. Court Interviews of Children

**A. General.** On written motion of any party filed pursuant to Rule 35, or its own motion, the court may,~~in its discretion,~~ conduct an *in camera* interview with a minor child who is the subject of a ~~custody~~ legal decision-making or parenting time dispute to ascertain the child's wishes as to ~~the child's custodian and as to parenting time both.~~ The interview may be conducted at any stage of the proceeding and ~~The interview must~~ shall be recorded by a court reporter or any electronic medium that is retrievable in perceivable form. The record of the interview may be sealed from the public, in whole or in part, based upon good cause and after considering the best interests of the child. The parties may stipulate that the record of the interview will ~~shall~~ not be provided to the parties ~~or that the interview may be conducted off the record.~~ The record of the interview must be made available to the parties, unless they have stipulated otherwise, not less than 14 days prior to the hearing at which the interview may be considered by the court unless the assigned judge finds good cause for a different time frame.

**B. Special Precautions.** In conducting an *in camera* interview with a child, the court must take special care to protect the child from embarrassment and restrict the unnecessary repetition of questions. The court must also take special care to ensure that questions are stated in a form that is appropriate to the child's age and intellectual capacity. The court must inform the child in an age-appropriate manner about the limitations on confidentiality, that the information provided to the court will be on the record, that the information provided to the court will be provided to the parties in the case unless the parties have stipulated otherwise, and that whatever the child says will be considered but will not alone be determinative of the issues of legal decision-making and parenting time. In the process of listening to and inviting the child's input, the court must allow but not require the child to state a preference regarding legal decision-making and parenting time and should, in an age-appropriate manner, provide information about the process by which the court will make a decision.

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<sup>1</sup> Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

**C. Definition.** As used in this rule, “court” includes any Conciliation Services department, agency or other third-party professional ordered by the assigned judge to conduct a child interview pursuant to ARIZ. REV. STAT. § 25-405 or the Arizona Rules of Family Law Procedure.

**Comment to 2015 Amendment**

Generally, the court should not conduct an *in camera* interview of a child under this rule unless it finds that the child is of sufficient age and intellectual capacity to reason and form an intelligent preference as to legal decision-making and parenting time. The court is strongly encouraged to utilize other resources, where available and appropriate, to ascertain that preference. In particular, a court should proceed with caution when interviewing a child in any case in which a party has alleged “domestic violence” as defined in ARIZ. REV. STAT. §§ 13-3601(A) and 25-403.03(D), or “abuse” as defined in ARIZ. REV. STAT. § 8-201(2).

**COMMITTEE COMMENT**

[No change in text.]